

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 3617 OF 2017
IN
FIRST APPEAL STAMP NO. 5615 OF 2017**

Rafique Hussain Shaikh	... Applicant
<i>In the matter of</i>	
Iffco-Tokio General Insurance Co.Ltd.	... Appellant
Versus	
Rafique Hussain Shaikh and another	... Respondents

.....

Ms. Sushma P. Gor for Applicant.

Mr. A. P. Kulkarni for Respondent-insurance company.

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CORAM : K. K. SONAWANE, J.

DATE : 3rd AUGUST, 2018.

P. C.:

1. Heard learned Counsel for the applicant-original claimant and learned Counsel for respondent-insurance company.

2. The present application is filed for permission to withdraw the compensation amount deposited before the learned Commissioner, Workmen's Compensation, Mumbai in Application (WCA) No.670/C-179 of 2011. Learned Counsel for the appellant-insurance company submits that there is dispute in regard to the insurance policy issued in favour of owner of the offending vehicle

on the date of occurrence of the accident. He has also put in controversy the quantum of compensation amount. Therefore, he requested not to allow the applicant to withdraw the amount deposited in this matter.

3. In view of nature of subject matter and the reasons mentioned in the application as well as grounds of appeal raised on behalf of appellant-insurance company, I find that the applicant-original claimant is to be allowed to withdraw at least lumpsum amount of Rs.4,00,000/- from the total compensation amount deposited before the trial Court. Definitely, it would subserve the purpose to provide solace to the applicant. Hence, civil application deserves to be allowed partly.

4. Accordingly, application stands allowed partly. The applicant-original claimant is hereby permitted to withdraw total sum of Rs.4,00,000/- from the compensation amount deposited before the Workmen's Compensation, Mumbai, subject to condition that the applicant-original claimant shall furnish undertaking that in case any contingency arises in the appeal, he would refund the amount so withdrawn forthwith. Rest of the

balance compensation amount be invested in any nationalised bank in FDR account for a period of two years or till final decision of the present appeal on merit, whichever is earlier, with liberty to renew the FDR, if required in future.

5. The Registry of Workmen's Compensation, Mumbai shall take requisite steps for disbursement of amount in favour of the applicant as directed above and forward report of compliance to this Court.

6. With the aforesaid observations, civil application stands disposed of.

(K. K. SONAWANE, J.)

Shridhar
Marutirao
Sutar

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